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**PARAGUAY**  
**DECENTRALIZATION,**  
**SUBNATIONAL GOVERNMENT,**  
**CITIZEN PARTICIPATION AND THE**  
**PROCESS OF DEMOCRATIZATION**

**A DIAGNOSTIC ANALYSIS**

**FLORIDA INTERNATIONAL UNIVERSITY**  
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## SUMMARY

Even on a continent where centralized government has been the norm, Paraguay stands out for its high degree of centralization. For much of its history, centralization was further reinforced by the existence of dictatorial governments - perhaps the most authoritarian of which functioned from the mid 1950's to the conclusion of the 1980's. In the aftermath of the fall of the dictatorial regime in February, 1989, Paraguay experienced, in May 1989, its first democratic elections in 60 years. This was followed two years later by the country's first direct election of Municipal *Intendentes* (Mayors). In turn, based on the provisions of its new constitution (1992), two years later, in May 1993, Paraguay's citizens selected the nation's first elected regional officials - 17 Departmental Governors and the membership of each of the country's 17 *Juntas Departamentales* (Departmental Councils).

Encouraged by these developments, many Paraguayans concerned with the consolidation of democracy in their country have increasingly come to focus upon subnational government as an important vehicle for the achievement of that goal. This in turn has led to growing concern about the very limited fiscal and human resources available to most Municipal and Departmental Governments in Paraguay. Consequently, various efforts at strengthening the country's system of subnational governance have been initiated.

Thus, while the situation remains very fragile, Paraguay has clearly embarked upon the dual processes of decentralization and democratization. A key element of this process is the strengthening and clarifying of the roles of the country's 17 Departmental and 217 Municipal Governments as part of efforts to modernize and democratize the Paraguayan state. The study that follows details both this process of development and provides an analysis of many of the fiscal and organizational issues facing subnational government in Paraguay. It concludes by urging that in order to further support and encourage the twin processes of decentralization and democratization in Paraguay, the following policies and activities should be pursued:

1. With Paraguay's strong tradition of centralism, it is critical that the basic legal framework of the country be restructured in such a fashion as to encourage the development of decentralized governance. Consequently, support and technical assistance to the Congress of Paraguay is required for the purpose of both facilitating the rewriting of national legislation to encourage decentralization and democracy, and to assist that body in opening up its own processes in order to make it more responsive to popular requests for enhanced local control and citizen participation.
2. Presently, virtually all important public services in Paraguay are administered by the national government in a very highly centralized manner. Consequently, it is of critical

importance to work with those national ministries that both are providing services that experience has shown are very effectively delivered at the local level and which have given indications of some support for decentralization in order to encourage their moving in that direction.

3. While there are many factors that contribute to the capacity of local governments to function effectively, none is more important than the availability of adequate revenue resources. As a result, policies should be pursued to enhance local government revenue generation and management capacities.

4. It is critical that those forces which support decentralization work in collaboration rather than conflict. Consequently, it is very important to the well being of the twin processes of decentralization and democratization in Paraguay that efforts be made to effectively clarify the respective roles of Municipal and Departmental Governments.

5. Many local governments in Paraguay will not, in the foreseeable future, have the capacity to effectively administer many key public services. Thus, the strengthening of Departmental Governments is a critical step in effectively carrying out decentralization policies within Paraguay.

6. It is an old, and accurate, political adage that there is strength in unity. Towards that end, significant efforts should be made to enhance the unity of subnational governments through the strengthening of associations of those organizations where they currently exist and by especially the encouraging the development of the more effective of such organizations.

7. In the end, the goal of decentralized government is to enhance the participation of the average citizen in the process of democratic governance. Consequently, it is crucial to support the development of effective citizen participation at all levels of Paraguayan government and society.

## **ACKNOWLEDGEMENTS**

As we note in the first line of this study, "Paraguay is a country in transition". Obviously transition implies movement and, in this instance, that movement is in certain respects occurring at a remarkably rapid rate. The study that follows represents a snapshot at one moment in time of one very important aspect of that transition. It is our hope that it will be a useful snapshot.

Catching a moving target is never an easy task. Capturing the essence of complex social, political and economic processes at a moment of change is an even more difficult one. If we have done that successfully it is only because we have had some superb assistance. We have been greatly aided by many extraordinarily talented Paraguayan government and political officials, and analysts who gave generously of their time and wisdom to assist us in this effort. There are too many such people to possibly be able to list them all here so we will not even try. We will just say that without their assistance, this study could not have occurred.

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Obviously any errors of fact or interpretation are solely the responsibility of the authors. Furthermore it should be realized that the views expressed in this document represent only those of the authors and, most assuredly, are not attributable to any official of the United States Government.

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## **I. INTRODUCTION**

Paraguay is a country in transition. It is involved in a complex and delicate process of moving away from a long tradition of a very high level of both authoritarianism and centralization. At present there are significant and vigorous forces to be found in many strata of Paraguayan society that are strongly committed both to democratization and to political and governmental decentralization. Nevertheless, while hopeful signs are evident, and a number of encouraging changes in political and governmental organization and structure have occurred (which clearly are facilitating these processes), it is by no means a foregone conclusion that these forces will succeed.

One very important step in the twin processes of decentralization and democratization has been the emergence of subnational - Municipal and Departmental - governments within this still very heavily centralized country. Since the fall, in February 1989, of the regime of General Alfredo Stroessner, Paraguay has experienced in succession - its first relatively free elections (since 1928) in May of 1989; the first direct election of municipal mayors in May, 1991; the election of a constituent assembly (December 1991) and the promulgation of a new constitution establishing the nation's first real system of regional - Departmental - governance in 1992; and the direct election of the 17 Departmental Governors in May, 1993. At the national level, the May, 1993 election also resulted in the country's first ever elected civilian president and - another first in Paraguay - the election of an opposition controlled Congress.

This report reviews the current governance situation in Paraguay with particular emphasis on issues of decentralization, Departmental and Municipal Government, and citizen participation. The first purpose of this review is to gain a better sense of those factors which will influence the mutually reinforcing processes of decentralization, strengthening of subnational government, enhancing citizen participation and democratization. Its second purpose is to provide guidance for a series of proposed action steps designed to further encourage and enhance the twin processes of democratization and decentralization.

## **II. THE POLITICAL AND GOVERNMENTAL CONTEXT**

Even on a continent where centralized government has been the norm, Paraguay stands out for its level and history of centralization. Historically, the country's political and economic life has been focused upon Asunción, the seat of the National Government. A comparatively homogenous and geographically centralized population, combined with a lack of cultural regionalism, further contributed to the centralist



tendencies. The result was that since the country's independence in 1811, with but a few brief exceptions, it has been ruled by an almost unbroken string of dictatorial, highly centralized regimes.

Notwithstanding the division of power established in various constitutions - which have mandated separate executive, legislative, and judicial branches - authoritarian leadership in the executive branch or the military, based in Asunción has almost always determined the country's political and economic fate. During much of the four decades prior to the February, 1989 coup against General Alfredo Stroessner, this authoritarianism was reinforced by a close alliance between the military, the ruling Colorado Party and a small entrepreneurial elite. This concentration of power prevented the development of a normal equilibrium between either branches or levels of government in Paraguay.

Basic statistics on government expenditures and public employment dramatically illustrate the high degree of centralization that still typifies the public sector in Paraguay. At present, 96,600 public employees (not including the very substantial military and national police force) work in the National Government. In contrast, the country's 217 municipalities employ no more than 4,000 public employees (3,200 of whom work for the Municipality of *Asunción*). In addition, the 17 newly created Departmental Governments employ no more than 400 people.

The difference in comparative budgets is equally dramatic. The National Government budget for 1993 amounted to 2,500,000,000,000 *Guaraníes* (approximately US\$ 1.3 billion)<sup>1</sup>; the total budgets of all municipalities for 1993 was 49,786,489,848 *Guaraníes* (approximately US\$ 25.8 million) or only 1/50 of the national budget. In contrast, in a country like the United States, with a strong tradition of decentralization and local governance, public employees and governmental expenditures are almost evenly divided among all three levels of government.

The coup d'etat led by General Andres Rodriguez in February 1989, and the peaceful transition to an elected President in 1993, initiated a process of reversing the long tradition of highly centralized, authoritarian government and paved the way for a democratic transition. This process of democratization has over the past four years acquired a degree of momentum that in all probability those who initiated it had not fully anticipated. Nevertheless, building democracy in a country dominated for almost two centuries by authoritarian rule still presents a major challenge for citizen and politician alike. The emergence of self determined municipal governance and local citizen participation already has begun and undoubtedly will continue to play a major role in this process.

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<sup>1</sup>The exchange rate used to express amounts in dollar terms was 1 US\$= Gs. 1,930

The municipal elections of May, 1991 were of extraordinary importance in this developmental process for several reasons. Not only was this the first time in the country's history that local mayors (*Intendentes*) were being elected by the people (as part of a comprehensive municipal election process) but the election also witnessed the ending of a single party's - the Colorado Party (or *Asociación Nacional Republicana ANR*) - monopoly on governance.

Indeed, except for the elections of 1929, Paraguayan history had never before recorded truly free elections to select official authorities, and most significantly, never before in Paraguayan history had a political party in power been replaced with another by means of the vote. In this context, the triumph, in the first truly free elections held in 63 years, of an opposition citizens' movement, independent of any political party affiliation in *Asunción*, the country's capital and nerve center of power, was both astonishing and profoundly important to the process of democratization. Of further significance, of the country's remaining 216 municipalities, another 43 elected mayoral candidates of the opposition Liberal or PLRA (Spanish acronym for Authentic Liberal - Radical Party) and another five elected independents. Consequently, Paraguayans concerned with building democratic institutions have increasingly focused their attention upon issues of the decentralization of power, strengthening local government and encouraging citizen participation as key areas of democratic reform.

Another unprecedented aspect of the May, 1991 municipal elections was the gain made by women in the electoral process - in spite of their generally meager representation in most of the parties municipal slates. In *Asunción* and its metropolitan area, however, the electoral slates for councilships were comprised of 30 percent women on the average. Most significantly, for the first time, political parties debated internally the role and percentages women should have in the candidacies.<sup>2</sup> An exceptional achievement was the appearance of women candidates for the office of *Intendente*. Women candidates for mayor were slated by each of the parties and also independently. In one of the country's larger municipalities, *Capiatá*, a woman opposition party candidate was in fact elected mayor.<sup>3</sup>

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<sup>2</sup> In this regard, the governing party, the ANR or *Asociación Nacional Republicana (Colorados)*, incorporated in their party's statute a 20 percent minimum participation quota for women. The movement *Asunción Para Todos*, governing the Municipality of *Asunción*, established in its statutes that not one gender could control more than 60 percent of the senior offices, or be represented in more than 60 percent in the electoral slates. In practice, however, and because the requirements are so general and do not establish, for example, what senior posts will be open to women; women still face difficulties in gaining access to public office or to high-level-appointed-government offices.

<sup>3</sup> Of a total of 206 municipalities in which elections for mayor were held, only 13 women were elected or less than six percent of the total. In the Municipal Councils the percentage of elected women does not exceed 20 percent. In the Municipal Council of *Asunción*, of 24 councilpersons, five are women. In the municipalities of *Lambaré*, *San Lorenzo*, and *Fernando de la Mora*, of 12 councilpersons, only one in each of them is a woman,

The final 1991 vote count for the positions of mayor and municipal council member on a national level was distributed by party affiliation as follows:

#### RESULTS OF 1991 MUNICIPAL ELECTIONS

POLITICAL PARTY	NUMBER OF VOTES	PERCENTAGE OF THE VOTES
ANR ( <i>Asociación Nacional Republicana</i> )	412,259	43.3%
P.L.R.A. ( <i>Partido Liberal Radical Auténtico</i> )	316,842	33.5%
INDEPENDENTS	182,941	19.4%
OTHERS	82,125	3.8%

Of particular consequence, the Colorado Party's May 1989 Presidential election share declined from 74 percent of the total Presidential vote to only 43 percent of the total municipal vote. Meanwhile, the Liberal Party (PLRA) emerged from the 1991 municipal elections with a net gain of more than 13 percent, as its nationwide percentage went from 20 percent in May 1989 to 33 percent. PLRA gains were based on voter support in the country's more urban areas. The cities which surround *Asunción* (*San Lorenzo, Fernando de la Mora, and Lambaré*) all elected PLRA *Intendentes*. Of the eleven municipalities surrounding *Asunción*, the PLRA won in six. The Colorado Party, however obtained 75 percent of intendencies, the majority of which were in less urbanized locations. The preponderantly rural support of the Colorado Party is evident insofar as the 43 percent of the vote that it won nationally in the municipal elections dropped to 34 percent in the more populous urban centers and to 27 percent in *Asunción*.

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which represents less than 10 percent. In October of 1993 the Network of Municipal Women of Paraguay (*Red de Mujeres Municipales del Paraguay*) was created. Composed by women elected to mayorships and to Councils, its goal is to promote women's participation, awareness of women issues, and to provide technical assistance and training to elected women. At present it has about 150 members (there are about 2,000 elected municipal representatives, of whom 180 are women). Its efforts have been hindered by a lack of resources.

### III. THE STRUCTURE OF SUBNATIONAL GOVERNANCE IN PARAGUAY

#### The Decentralization Process

Paraguay is administratively divided into 17 Departments and 217 municipalities that vary in size, population, and importance. The new constitution of 1992 introduced the figure of Governor as the Executive power of the Departments within a still "unitarian" country. Consequently, just as the municipal elections of May, 1991 mark a major step in the twin process of democratization and government decentralization, so too does the establishment of the National Constitution of 1992 because it institutes the basis for decentralization in Paraguay. In fact, the issue of decentralization became an important one during the Constitutional Assembly as increasingly has been the case in many Latin American countries.

This development has been due in part to the failures of highly centralized governments in delivering adequate basic services and in representing the needs of the people, and also because centralized systems were seen, in some countries, as instruments of control and repression. Consequently with the return of democracy to the continent, decentralization and "modernization of the state", have become major concerns in much of Latin America.

Except in those countries where a federal system already existed (Argentina, Brazil, Mexico, and Venezuela), some sort of decentralization has been included in the constitutions of many of the countries in the region (Colombia, Uruguay, Peru, Chile, Panama, and to a lesser degree in Costa Rica, Ecuador, Haiti, and Guatemala). Even in countries where centralism has been the characteristic feature of their political-administrative organization (Honduras, Nicaragua, Bolivia, Dominican Republic, El Salvador, and Paraguay), reforms aimed at decentralization are also taking place.

In Paraguay, prior to the 1992 Constitution there was virtually no constitutional basis for the decentralization of government and political power outside of Asunción. The National Government of Paraguay has organized since the beginning of the 20th century various designated regional and local administrative units. However, they possessed no autonomy from the National Government, had no independent capacity to act - either inherent or delegated - and for the most part, were of little consequence to anyone, except for the person appointed as the regional representative of the National Government.

Not surprisingly, given these circumstances, the level of national commitment to the decentralization of governance (and political power) as manifested in the provisions of the 1992 Constitution reflects some considerable ambiguity. This is most clearly illustrated in the Constitution's first article where Paraguay is characterized as a state that is both "unitarian" and "decentralized". Nevertheless, the

Constitution does state in Article 156 that:

*"in the interests of the political and administrative organization of the State, the national territory is divided into Departments, municipalities, and districts<sup>4</sup> which, within the limits of this Constitution and its laws, enjoy political, administrative, and normative autonomy for the management of its interests and an autarchy for the collection and investment of its resources".*

Article 161 of the Constitution further establishes that the government of the 17 Departments will be presided over by a Governor and by a Departmental Council (*Junta Departamental*). Both the Governors and the members of the Departmental Council are elected directly by popular vote of those citizens residing in the respective Departments, in elections coinciding with the general elections, and remain in their positions for five years. Only the members of the Departmental Council can be re-elected. To be elected Governor, the candidate needs to be a native Paraguayan, be 30 years old at the time of the election, be a native of the Department and to have lived there for at least a year prior to the election. If not a native of the Department, the candidate must have lived there for a minimum of five years prior to the election. The same requirements apply to candidates for the Departmental Council, except that one can be 25 at the time of the election (Art. 162).

One potential problem in the office of Governor is that the 1992 Constitution (and later on the Administrative Departmental Law ) establishes that, even though the Governors are elected directly by the people, they are expected to represent the President of the Nation in the Department. This provision could easily become a source of difficulty when there is a conflict of interest between the residents of a Department and the sometimes broader concerns of the National Government. This especially might be the case, in the Departments of *Central, Amambay, Boquerón, Concepción, and Cordillera* where the Governors belong to political parties other than the Colorado Party of President Wasmosy.

Article 167 of the Constitution establishes that the government of the municipalities will be under the direction of a Mayor and a Municipal Council, which

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<sup>4</sup> The Constitution introduces here the concept of "district" with no further explanation of what it is, its functions, and attributions. In fact, analyzing the antecedents to this article, the figure of "district" is not mentioned once (*Ramiro Barboza. Constitución de la República del Paraguay 1992. Tomo II. CIDSEP-AID. pags.775-780. Asunción, marzo 1993*). All articles refer to the administrative organization of the state as divided in Departments and Municipalities. In practice, the district and the municipality are the same. The territory of the district corresponds to a municipality, and the district is administered by the municipality. Some people interpret the introduction of the "district" in this article as a mistake of the Constitutional Assembly, trying, probably, to identify a difference between the rural area (to be called "districts") and the urban area (the municipality) within the same territory. The Constitution only names the "district" in this article, and there are no further references to it.

will be elected by direct suffrage by legally qualified persons, both for a five year term, but mayors can not be re-elected. The present Administrative Municipal Law 1294/87 establishes that the Municipality of *Asunción's Junta* will have 24 members. In the other cities, the number of *Junta* members vary from nine to twelve based upon variation in population and annual budget. To be elected to the Municipal Council, the candidate must be a Paraguayan citizen, be 25 year old, of recognized respectability, native of the municipality or a resident for at least three years. Foreign nationals can also be elected to the *Juntas* if they have lived in the municipality for at least seven years and if they meet the same criteria as the nationals. The same requirements apply to candidates for mayor, except that only Paraguayan citizens can hold office.

Another important constitutional step encouraging the decentralization of political power and government activity is in the structuring of political representation in the formation of the National Parliament. In the former organization of the Congress, the members of both Houses were elected from closed national lists of names with no consideration given to geographical distribution. The new Constitution provides for the election of members to the 80 person House of Representatives (*La Cámara de Diputados*) by Department with variation in sizes of delegations in accordance to the relative number of voters in the Department (with *Asunción* as a special electoral district)<sup>5</sup>.

#### Departmental Governance in a Time of Transition

Paraguay's 17 Departments vary greatly in population, size and density. The Department of *Central*, which rings the special capital district of *Asunción*, has the largest population, over 860,000 and a density of 350 people per square kilometers. In contrast, the Department of *Alto Paraguay*, though much larger in land area has a population of approximately 12,000 and a density of less than three people per square kilometer. This variation in size is, in terms of government structure, most notably reflected in the size of the Departmental Councils and Congressional delegations. Congressional delegations in the Chamber of Deputies range in size from seventeen for *Central* and thirteen for the special district of *Asunción* (population 502,000) to one each for the four smallest of the nation's seventeen Departments.

Not surprisingly, much ambiguity has characterized the start up of Departmental governance. This has been true both in terms of their functions and the ready availability of revenues. Consequently, Departmental Governments are currently still

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<sup>5</sup> The 1992 Constitution provides that the Chamber of Senators will have a minimum of forty-five members and thirty "replacements", directly elected by the people in one national electoral district. The law will establish, according to the variations in the country's population, how the number of Senators would increase. To be elected Senator the candidate must be a Paraguayan citizen and at least 35 year-old at the time of the election (Art. 223 of the National Constitution).

very modest operations in terms of activities. Indeed, even in their most highly advanced situations they still have only rather minimal staffs. No doubt the two most highly developed Departmental Governments are to be found in *Paraguarí* and *Central* and consequently, one gets some sense of the current outer limits of Departmental governance through looking at them.

The Governor of *Paraguarí* has appointed a cabinet with Secretaries and one or two administrative staff in the following areas: Education, Public Works, Transportation, General/Cabinet, and Agriculture. The Governor is going to add one more Secretary in Health. Additionally, the Governor has appointed a General Secretary for the Department (a law student) and a Director of Administration. Together, with administrative staff, the Governor has approximately ten employees. This is the entire professional level staff and in total they are supported by only one receptionist, a private secretary for the Governor, and an administrative assistant for the Director of Administration. The *Junta Departamental* for the Department is served by one secretary.

The Governor of Department *Central* has appointed a cabinet with Secretaries of Health, Education, Public Works, Economic Development, Environment, and General/Cabinet. Each Secretary has an administrative assistant as well as administrative and support staff. Additionally, there is a Secretary for the Department and a Director of Communications (press relations). The Governor reports that there are approximately thirty staff members in total. The *Junta Departamental* for Department *Central* has a total of six staff, none are at the professional level.

Departments that have fewer than thirty-five thousand citizens have seven member Departmental Councils, and for those with a larger population, a member is added for every five thousand registered citizens or for every fraction over fifty percent of five thousand, up to a maximum of twenty-one. The Departmental Councils are supposed to work closely with the Governors in administering the resources of the Department. They can enact statutes and Departmental regulations, and can call for the intervention of the Department<sup>6</sup>, as well as, in theory, oversee the activities of national entities in the respective Department. Overall, though the functions of the Departmental Council members are still not clear in Paraguay and this has resulted in some confrontations with the Governors.

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<sup>6</sup> The Paraguayan Constitution, in keeping with the country's centralist tradition provides that both Departments and municipalities will relate to the National Government through the Ministry of the Interior - some of whose staff clearly view this as a hierarchical reporting relationship. Both the Departmental and the Municipal laws give the Ministry of the Interior the authority to "intervene", in essence to remove from office, local and Departmental officials under various circumstances. In theory, the Ministry is obligated to organize elections to replace the removed official in 90 days. In at least one instance the election was not held, thus effectively bringing the municipal government involved (*Capiatá*) to a standstill.

Nevertheless, while still very recent entrants into the Paraguayan political and governmental scene, Departments, and in particular, Departmental Governors, are beginning to gain some modest levels of visibility and credibility. For the most part however, this is based on the personal political strength of the individual Governor, rather than upon the actual resources of the office or upon any measure of collective unity or strength.

For example, while an Association of Governors has been formed, it has yet to emerge as any more than a vehicle for Governors to occasionally get together to exchange views. In fact, the intense political divisions that make the country's movement to democracy a very fragile process, have had their impact on that organization as well. The Association's rules provide for a rotation in its Presidency every three months in order to facilitate broad involvement in its leadership. However, the Association's first President (a Colorado) was, at the conclusion of his three months, reportedly reluctant to turn the Presidency over to the Vice-President (a Liberal) because of their differing party membership and consequently held the position for nine months before relinquishing it to his successor.

Politically, Departmental Governments perhaps more accurately reflect the actual balance of power within Paraguay than any other institution. The Colorado Party is still the dominant force as reflected in its control of the majority of the Governorships (twelve Colorado; four Liberal; and one *Encuentro Nacional*). The fragility of its hold on power however is reflected in the Departmental Councils. In total, 167 individuals serve on the country's seventeen Departmental Councils - 77 are Colorados (46 percent); 59 are Liberals (35 percent); and 31 (19 percent) are with the *Encuentro Nacional*. The result is that while the Colorado Party's representatives hold the largest number of seats in eleven of the country's seventeen Departmental legislative bodies, they hold an absolute majority on only two of them (*Alto Paraguay* and *Guairá*).

Departmental Governments not only reflect the uncertainty of political power in Paraguay, they also reflect the ambiguity of the country's movement towards more decentralized governance. The authors of the 1992 Constitution, divided between parties and factions within parties, while able to agree on the need to create Departments, were by no means able to agree upon how broad their service or governance mandate should be. Consequently, they are given very little clear cut authority or resources - fiscal or otherwise. The National Constitution grants the Departmental Governments the following authority:

1. To coordinate activities with those of the different municipalities of the Department; to organize common Departmental services, such as public works, energy, drinking water, and others which jointly affect more than one municipality, as well as to promote cooperative associations among them;



2. To prepare the Departmental Plan of Development, which is to be coordinated with the National Plan of Development, and to design the annual budgetary formula, to be considered in the nation's general budget;
3. To coordinate Departmental action with the activities of the National Government, primarily in the areas of health and education;
4. To facilitate the formation of Departmental Development Councils.

### Departmental Revenues

The Departmental Governments are governed by the Administrative Departmental Law, No. 426/94, established by the National Congress. Most of the Departmental Governments consider the law to be too restrictive in terms of facilitating the exercise of Departmental power. Not only are their attributes and functions only very vaguely defined, but so too are their sources of revenue.

Even though the Constitution, and the Departmental Administrative Law, establish that 15 percent of the income received by the municipalities by way of the property tax revenue should be transferred to the Departmental Government (Art. 169), neither of them clearly establish the mechanism as to how this will be done. While this may not be appropriate to be done in a Constitution, it certainly should be addressed in the basic Departmental Law. The result of this lack of clarity is that the Ministry of Finance has at times moved either very slowly, or not at all, in distributing the revenue that it has collected for Departmental Governments back to them because of an expressed lack of certainty about the appropriate administrative mechanisms.

The Departmental Law has been recently modified by the National Congress, and initially approved in September of 1994<sup>7</sup>. The revised law approved by the Congress does however modestly strengthen both Departments and municipalities and thus does promote the goal of decentralization. New and more clearly defined Departmental functions are established (Art. 16) including authorizing, if not mandating, the delivery of services such as public works, electricity, water, and transportation in cooperation with the affected municipalities. In Art. 17, the functions of the Governors are broadened as well as those of the Departmental Council (Art.20), including the Governor's right to coordinate and control the deliverance of services by National Government entities in the Departments.

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<sup>7</sup> This law was vetoed initially by President Wasmosy, but the opposition dominated Congress overrode his veto. The law has been in effect since January of 1995. The Executive branch had opposed both providing the Governors with more revenue as well as opening up the possibility for them to oversee the work of National Government agencies such as CORPOSANA, the national water agency.

The Departmental revenue sources are also broadened and more clearly specified in the revised law. Art. 34 establishes that 15 percent of the IVA (*Impuesto al Valor Agregado*) or value added tax be kept in the Departments to be used for education, health, and public works<sup>8</sup>. The money is to be transferred monthly by the Finance Ministry. Art. 36 establishes that the 15 percent of the property taxes of the municipalities will be deposited for the Departmental Government in their bank accounts.

The Ministry of Finance will be in charge of transferring 15 percent of the property taxes collected from all municipalities back to the poorest municipalities [defined by dividing the total budget of the municipality by the total population - municipalities in which the resulting per capita income is two times lower than the minimum income established by law for a worker, are considered poor municipalities, (Art. 38)]. This provision is emerging as a source of growing controversy, however, because it has taken both the Congress - and now seemingly also the Ministry of Finance - so long to initiate implementing it. The law has also been criticized because of alleged flaws in the formula which - if and when it is implemented - will result in non-poor municipalities receiving funds under its provisions.

Article 40 of the new Administrative Departmental Law regulates the funds coming from gambling and is a potentially important benefit to both Departments and municipalities. Before this law was ratified, gambling licenses were approved only by the National Government and the revenues from concession and control were given to the National Government. Municipalities could only collect fees from local raffles. The new law, transfers the benefits from concessions and oversight (therefore the revenues from gambling licenses) to the municipalities which then will transfer a percentage to the Departments. According to the law, 30 percent of the tax revenues from gambling are to stay in the concerned municipalities, 30 percent goes to the Departments where gambling is established, 30 percent to the DIBEN (*Dirección de Beneficiencia*)<sup>9</sup>, and 10 percent goes to the National Treasury. In the case of *Asunción* (Art. 41) 25 percent will stay with the Municipality, 20 percent will go to the Departmental Governments to improve transport and communications access to the capital, 20 percent will go to the poorest municipalities, and 25 percent to the DIBEN, and 10 percent to the National Government (*Rentas Generales*).

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<sup>8</sup> The value added tax (IVA) in Paraguay is 10 percent. The Governorships will receive 15 percent of all of the IVA tax collected within their respective Departments.

<sup>9</sup> The DIBEN or *Dirección de Beneficiencia* is an autonomous agency that reports to the President's Office created by the Rodriguez Administration. Is in charge of charity activities, good-will deeds, and "community development projects" such as sport stadiums. The DIBEN has a multiparty policy advisory council, and the President of the council is in charge of the administration of the DIBEN.

Not all the Departments (or the municipalities) will benefit when the new law is implemented, since gambling licenses are not issued in all of them: casinos, for example, are likely to be located in large cities such as *Asunción* (where they already exist) or *Ciudad del Este*. The main new local revenues will come from controlling "bingo", "lotto games", "quiniela" and other such games previously controlled by the National Government which take place within the municipalities.

### Municipal Governance in a Time of Transition

Paraguayan municipalities are regulated by Articles 166 to 171 of the National Constitution, and by the Administrative Municipal Law No. 1294 of 1987. Article 166 of the National Constitution defines municipalities as "organs of local government, with legal personality which have political, administrative, and normative autonomy within their jurisdiction, as well as absolute sovereignty in the collection and investment of resources".

Article 168 of the National Constitution stipulates that the following "will be functions and attributions of the municipalities, in their territorial jurisdiction and in accordance with the Law:

- 1) jurisdictional management, particularly in the areas of urban planning, the environment, supplies, education, culture, sports, tourism, sanitary and health services, credit institutions, and police and inspection agencies;
- 2) the administration and arrangement of its assets;
- 3) the design of its budget for income and expenses;
- 4) participation in national revenues;
- 5) regulation of the rates of amounts to be repaid for services rendered, without being able to exceed the cost of the same;
- 6) the issuance of ordinances, regulations, and resolutions;
- 7) access to international and national private and public credit<sup>10</sup>;

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<sup>10</sup> It is interesting to note that according to the current Municipal Law, the municipalities have no special restriction on how or from whom they can borrow. The Municipal Council must approve all loans the municipality assumes. No special permission is required from the Finance Ministry or the Congress. The only exception to this would be if some international lending organization such as the IDB or the World Bank, required a national guarantee for a certain loan, then of course the Congress or the Executive Branch would have to supply the guarantee. But these are restrictions that might be imposed by international lending organizations and not any sort

8) the regulation and control of transmit, including public transportation and other matters related to the circulation of vehicles, and

9) other functions established by this Constitution and the law".

The Administrative Municipal Law 1294/87, building upon the Constitution, provides further elaboration upon the responsibilities of Municipal Governments which are to include:

1) The establishment of a system of municipal physical, urban, and rural planning;

2) The construction, maintenance, and beautification of streets, avenues, parks, plazas, public baths, and other public places and of roads which are not under the jurisdiction of other agencies;

3) The regulation and furnishing of sanitation services, especially the collection and disposal of solid waste;

4) The cleaning of roadways and public places;

5) The regulation and control of construction plans, naming of streets, numbering of lots and homes, and public decoration;

6) The creation of services which facilitate the marketing and furnishing of essential consumer products such as those found in markets, slaughterhouses, fairs, and other places, as well as the control of the preparation, handling, and distribution of food.

7) The fostering of public education, culture, sports, and tourism;

8) Cooperation in the preservation of historical monuments, works of art, and other cultural heritage;

9) The regulation and control of transportation, of the operation of passenger transportation, and other matters related to the circulation of vehicles;

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of Paraguayan legal requirement.

10) The regulation and control of public performances, commercial publicity, and sports and recreational events, which foster the preservation of public morality;

11) The regulation of the opening and operation of pawn shops and municipal credit institutions;

12) The creation and regulation of the municipal police force for the performance and control of those activities related to matters of municipal jurisdiction.

13) The furnishing of the services of lighting, water and sewage, in the event that these services are not provided by other public agencies;

14) The establishment of a local staff in charge of the delimiting of river beds, lakes, and streams with arrangements in accordance with the Civil Code;

15) The regulation of funeral and cemetery related services;

16) The preservation of the atmosphere and ecological equilibrium, the creation of parks and forest services, and promotion and cooperation for the purpose of protecting natural resources;

17) The fostering of public health, the construction of public housing, and public welfare programs;

18) The promotion of civic consequences and the solidarity of the people for their participation in activities of common interest;

19) The development of employment plans and programs in coordination with the Ministry of Justice and Labor in order to channel the supply and the demand of labor and to foster employment; and

20) Other functions in compliance with municipal goals.

While the Municipal Law's listing of areas of responsibility seems at first glance to suggest that municipalities have broad authority and power, the reality for all but a dozen or so of the country's local governments is quite different. Indeed, most municipalities have so few employees and so little resources as to in fact not really be functioning governments. Illustrative of this is the fact that one recent study concluded that only five percent of the country's municipalities have access to any form of computing or word-processing equipment.

Paraguay's long tradition of centralized government has created a system in which almost all important public services are delivered and controlled by highly centralized National Government ministries. The regulation of public interurban transportation, which is primarily privately provided, is under the control of the Ministry of Public Works and Communication. This Ministry also is in charge of road construction for the country.

Public lighting is in the responsibility of the National Electricity Administration (ANDE) and the furnishing of drinking water, drainage and sewers is in the hands of either CORPOSANA or SENASA, both of which are National Government entities. However, the National Government and the Congress are currently considering decentralizing the water and sewerage service delivery to municipal and departmental levels, including the possibility for privatization and concessions on a case-by-case basis.

The construction of community housing is carried out by the National Housing Council and the National Housing Bank, both of which are National Government agencies. The development of local employment plans and programs is a function of National Professional Promotion Services (SNPP), a unit of the Ministry of Justice and Labor. Public health services are almost entirely provided by the Ministry of Public Health and Social Welfare and the Ministry of Education and Culture is in charge of public education from the elementary through the university level.

Thus, the real functions of almost all municipalities are much more modest than they would appear based on a review of the municipal law. In effect, given the centralism which still continues to characterize Paraguay, the following are the primary municipal functions:

- 1) physical planning of the municipality;
- 2) limited street paving;
- 3) sanitation and garbage collection services;
- 4) regulation of markets, slaughterhouses, and cemeteries;
- 5) the control of animals and food;
- 6) the regulation and control of transportation, the circulation of vehicles and the public bus terminal;
- 7) the regulation of public presentations and pawnshops and the municipal bath; and
- 8) the municipal traffic police force.

In fact, however, even this is misleading in terms of the bulk of Paraguay's Municipal Governments. Physical and urban planning in almost all municipalities are practically non-existent and one recent study of municipalities found that in response to the question of whether a system of traffic signs existed in the municipality, 71 percent responded negatively. Clearly for most municipalities transit regulation and

control is minimal. The same is true for numerous other urban activities ranging from garbage collection to general health and safety regulatory activities.

One important factor that contributes to minimizing the level of services provided by Paraguayan municipalities is the modest amount of revenue available to them. The most recent data on municipal finances compiled by Paraguay's Institute of Municipal Development reveals that for 1993, 102 of the country's 217 municipalities had total budgets of less than US\$30,000 for the year. In 1991, for which more complete data is available, forty municipalities had no annual budget, 134 had budgets of US\$100,000 or less and only five (excluding *Asunción's* more than US\$ 20 million municipal budget) had annual budgets in excess of US\$100,000. Quite clearly by traditional standards, except for a handful of communities, municipalities in Paraguay can provide little or no significant services on a routine basis.

### Municipal Revenues

Historically municipalities in Paraguay have been highly limited in their capacity to impose and collect taxes and other revenues. There is also, not surprisingly, no tradition of the National Government engaging in any form of revenue sharing with or routinized grants-in-aid to subnational governments. Indeed, Paraguayan municipal revenue laws are for the most part not only restrictive but also highly centralized in that their administration is closely overseen by national agencies. In fact, traditionally, virtually all revenues collected at the municipal level were remitted directly to the National Government.

The country's 1992 Constitution gave municipalities a small measure of financial independence and the recently passed revision of the Departmental law will further enhance their situation by allowing them access to certain new revenues. The most important legal change was that which was outlined in the 1992 Constitution, allowing the municipalities to retain 70 percent of all property taxes that they collect. The remaining 30 percent is split evenly in each Department between the Governor and a Departmental wide fund to support the poorest municipalities. In the case of *Asunción*, which is not part of a Department, the remaining 30 percent is to be divided equally between the fund for the poorer municipalities and a fund to improve communication and transport between the country's interior and the Capital.<sup>11</sup>

However, because property values in Paraguay historically have been vastly underassessed (or, in some instances not assessed at all) and because municipalities

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<sup>11</sup> The use of the later fund will be coordinated by *Asunción* and the Governorships of *Department Central* and *Presidente Hayes* Department.

are very restricted in their ability to increase property assessments, the constitutional revision has not been nearly as beneficial as might have been anticipated. The *Ministerio de Hacienda* sets the values to be charged for property tax, composed of a tax on the land and a tax on the building. The tax rates are differentiated within a municipality, by a geographic area zone; for example, *Asunción* has nine zones. Most municipalities in the interior have the value set by three categories, depending on whether properties are located upon paved streets, stone streets, or dirt streets. The current tributary law, 125/91, limits property value increases to a maximum of 15 percent per year plus inflation. Therefore property values which had been greatly understated could take many years to reach real (inflation adjusted) values.<sup>12</sup>

The municipalities do have access to the receipts from a variety of tariffs and fees that they may collect for local services provided under municipal ordinances. For the most part, however, the rates that they may set are very closely limited and regulated by the National Government. The specific Revenue Law, 135/91, outlines how much municipalities can charge for everything from professional and commercial patents to land fractioning and construction to municipal stamps and seals. Fees on a few items, such as garbage collection are left to the discretion of the municipality.

Therefore, municipalities now have two new revenue sources at their disposal; the property tax outlined in the 1992 Constitution, and the gambling tax incorporated into the 1994 Departmental Law. In addition, it appears that the new Administrative Municipal Law, which is still being drafted in the House of Deputies Municipal Affairs Committee, will also allow additional flexibility in the setting of tax/fee rates at the local level as well as freer implementation.

The Municipality of *Asunción* with a population in 1992 of 502,426; due to its size and completely urban composition is atypical of Paraguayan municipalities. This also holds true in its revenue structure. During the first semester of 1994 the Municipality of *Asunción* had the following revenue breakdown:

Total Revenues Gs. 38,725 million or approximately US\$20.0 million.

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<sup>12</sup> Property tax values are set by the National Cadastre Service which is a department within the *Ministerio de Hacienda*. These values are updated yearly (since 1991). The property values are legally allowed to be increased by the annualized inflation plus up to an additional 15 percent. For example, for 1995 the national Cadastre Service took the annualized inflation through November, as reported by the Central Bank, which was 18.7 percent and added an additional increase of 6.2 percent for a total increase in property values of 24.9 percent. Under this system the property values can never be increased more than 15 percent in real terms from year to year.

The property values are issued by districts. Therefore to calculate the property tax, the value for the corresponding district is multiplied by the meters squared of the property to be taxed. This calculated total is then multiplied by one percent to obtain the property tax amount.



(note that the exchange rate used to express amounts in dollar terms was 1US\$ = Gs.1,930)

**Budget Breakdown (in millions)**

A. Tributary Income <sup>13</sup>	Gs. 33,377
B. Non-Tributary Income <sup>14</sup>	Gs. 5,051
C. Capital Resources <sup>15</sup>	Gs. 256
D. Donations	Gs. 41

**Sources of Tributary Income:**

(note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 14,712	38.9%
Garbage Collection Fee	Gs. 6,768	18.5%
Patents and Professional License	Gs. 2,743	8.2%
Vehicle Tax	Gs. 1,566	4.0%
Other Taxes/Fees	Gs. 7,588	19.6%

In general it is estimated that for Paraguayan municipalities, with the exception of *Asunción*, property tax revenue is between 15 - 20 percent of their total annual budget revenues. The sample data for 1994, found in the appendix, supports that assumption. *Asunción* depends on the property tax to a much higher degree than other municipalities, partially due to its more detailed cadastre as well as its stronger collection systems. But the main reason for this distribution would seem to be because *Asunción* is the only real large city in Paraguay and its tax base reflects that.

Nevertheless, the property tax has become an important portion of all municipal income. Clearly the property tax could be a source of increased revenues for municipalities were the National Government to give them increased latitude in setting assessments and rates. If the cadastres are updated, and appropriate collection

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<sup>13</sup> Examples of tributary income are mentioned under the "Sources of Tributary Income" heading.

<sup>14</sup> Non-Tributary Income is made up of a few general categories such as: rental of municipal property or services; fines and concessions. Interest from bank accounts and whatever other income which is not derived from a direct municipal tax or fee are included in this category. The amounts received by the municipality in the non-tributary income category are for the most part set by the municipality, for example rental rates. Some services are required by law to be charged at cost. The amounts for fines are set by the national tributary law.

<sup>15</sup> Capital resources are basically derived from three items; (1) loans, whether it be public or private sector, (2) budget surpluses from the previous year(s), (3) sale of municipal land and/or buildings. payments received by the municipality or loans they may have given also fall in this category.

systems are put in place, the current property tax amounts could double or triple. In the Municipality of *Asunción* it is estimated that such steps could increase this source of revenue for the city by about 60 percent.

The new distribution of the gambling tax will also have an impact on municipal revenues although clearly not as substantial as the property tax has had and has the potential to have. In any event, these tax distribution changes should help increase the amount of the total public budget administered by local governments. Currently, as noted at the outset, it is estimated that no more than two percent of all public spending in Paraguay is in the hands of local governments, of which the Municipality of *Asunción* represents about half of that amount. This contrasts with other South American countries where it tends to be around 10 to 15 percent.

In many respects however, the most pressing revenue problem for subnational governments in Paraguay today is not the adequacy of revenue sources but rather the inadequacy of revenue collection systems. Not only is there the problem of the adequacy of property valuation noted above, but the reality is that many businesses and individuals simply do not pay their taxes. In response, the subnational governments lack the capacity to act and the National Government apparently lacks the will. Indeed, one recent study by a prominent Paraguayan researcher suggests that the nation's municipalities actually only receive 20 percent of the tax and fee revenues that could be legitimately collected within their borders.

#### IV. CITIZEN PARTICIPATION IN PARAGUAY

Historically, citizen participation in any overtly political sense had, until 1989, been strongly discouraged. In fact, many Paraguayans left the country for political exile as a result of involvement in political activity deemed inappropriate by the regime in power.

Since the overthrow of General Stroessner in 1989, however, the country has witnessed a gradual evolutionary process of increasing citizen involvement in political and governmental processes. As a result, political demonstrations are now a not unknown phenomenon, especially in the national capital of *Asunción*. Nevertheless, many forms of citizen participation which are relatively commonplace and taken for granted in established democratic systems, have simply never had the opportunity to emerge and flourish in Paraguay. Activities such as the holding of public hearings by legislative bodies (whether at the national or local level) or the appointment of boards of distinguished citizens or program participants to advise policy-makers or administrators on issues of concern simply have not existed in Paraguay.

What has existed, however, is a tradition of informal citizen participation for the purposes of self-help projects. Because government, especially local government, has been kept minimal and has had access to only very modest resources, many of the normal public works activities that citizens of other countries have come to expect from their government historically have not been carried out by either national or local government in Paraguay. The result is that the country has witnessed over the past half century the emergence of a strong tradition of creating neighborhood committees for the purpose of constructing various public works or carrying out specific civic activities<sup>16</sup>.

In virtually every municipality of the country, and in many of the neighborhoods of *Asunción*, a strong tradition exists of community residents informally organizing themselves for the purposes of mobilizing community resources and labor (with often some modest assistance by a relevant national ministry) for the construction of a particular public work - the building of roads, schools and bridges being the most frequent goal of such bodies. While traditionally such initiatives have studiously avoided any activities that could even remotely be characterized as political, these initiatives have represented a vehicle for the development of at least a modest sense of community in many of the country's municipalities and in the neighborhoods of *Asunción*.

Since the demise of the Stroessner regime, *Asunción* has been the site of substantial developments in citizen participation activities. One particularly notable reflection of this is found in the fact that there are approximately forty non governmental organizations (NGOs) operating in and around *Asunción* - many of which are quite active. While the majority of them are engaged primarily in research and technical assistance activities, even those encourage citizen involvement through both their internal activities and their more general programmatic activities as well. In addition, several of these organizations are heavily involved in the promotion and development of citizen participation and have either carried out or encouraged the carrying out of a number of projects designed to develop and strengthen some aspect of community life through citizen participation.

Another key element in encouraging the development of citizen participation has been the efforts of the Mayor of *Asunción*, Dr. Carlos Filizzola (having run as an independent candidate for the office of Mayor, Filizzola obviously has, quite irrespective of his personal commitment to citizen participation, a clear political interest in encouraging such activity). Towards this end, the Mayor has pursued three separate strategies. First, officials of the administration tend to be very supportive of

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<sup>16</sup> Similar conclusions were found by a study on citizen participation done by the local NGO DECIDAMOS in November of 1991. *DECIDAMOS, Campaña por la Expresión Ciudadana. Problemas Municipales y Propuestas Vecinales de Solución. Encuesta a 50 Municipios del País. Asunción, 1991*

organizing neighborhood community groups and report with considerable pride that within the Municipality of *Asunción* there are now 200 such organizations.

Second, the Mayor further encourages such activities through visits one day each month to neighborhoods where he both holds a general town meeting and also goes from house to house visiting constituents and discussing issues with them. Finally, the staff of the Mayor is working with the purpose of establishing a neighborhood community center in each of the eleven neighborhoods into which the city is divided. Currently, four such centers have been opened and two more are in process. These centers, or *Centros Municipales*, which in many respects are designed to be like "little city halls", serve as organizing vehicles to further encourage local citizen participation within the boundaries of *Asunción*<sup>17</sup>.

## **V. MUNICIPAL ASSISTANCE INSTITUTIONS IN PARAGUAY**

There are in Paraguay two principal municipally-oriented technical assistance organizations that are recognized by the Municipal Administrative Law 1294. These are the Paraguayan Organization for Inter-municipal Cooperation (Spanish acronym: OPACI), and the Municipal Development Institute (Spanish acronym: IDM). The former's objective is to advance the interests of municipalities. It is, in essence, the Country's municipal association. The latter organization - IDM - exists within the Ministry of the Interior and was created at OPACI's request. Its objective is to offer technical and financial assistance to municipalities.

### **Paraguayan Organization for Inter-Municipal Cooperation (OPACI)**

OPACI's current circumstances serves to illustrate the dilemmas experienced by many institutions in the face of the changes in the social, cultural and political context which have occurred in the country since 1989. The 1992 Constitutional Reform eliminated the mandatory appropriation of funds from municipalities which provided the organization with significant revenue. Consequently, for OPACI to function effectively, it has been forced to move from a command/elite model of operation to a

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<sup>17</sup> The municipal centers are aimed at decentralizing the Municipality of *Asunción*. In these centers (each center represents a conglomerate of neighborhoods established by the Municipality) people can pay their municipal taxes, fees and fines, and certain general services are provided such as educational and health prevention campaigns. The centers, in which all the local area neighborhood commissions are represented, act as vehicles of communications between the Municipality and the people. Complaints, and requests are presented to the Coordinator of the center (who is named by the Mayor) and the solution to them is sought among the neighbors. The goal is to promote citizen participation and involvement. Environmental campaigns, promotion of cultural activities, public information, etc are many of the services given by the centers. Besides the general services each center makes a study of the needs of its neighborhoods as to develop the deliverance of specific services.

service mode and, not too surprisingly, that has proved to be a very difficult adjustment.

Prior to 1989, OPACI had among its leadership various influential figures of the Colorado Party who served to link it to key areas of power in the National Government. With the changing face of political power it has lost some of its access to National Government leaders (who had previously supported it and gave it much prominence vis-a-vis municipalities). Moreover, with the new era of popularly elected mayors, the *Intendentes* have become more autonomous, and OPACI can no longer count on its prestige as an organization to insure their participation. This has influenced the decision of a newly created voluntary membership group, the Metropolitan Area Municipalities Association, not to pay its dues or participate in OPACI. This is critical because 55 percent of OPACI's prior income was derived from the Municipality of *Asunción* and the immediate metropolitan area. Indeed, at the moment it is estimated that only 40 municipalities continue to pay their dues (one percent of their annual budget) to OPACI.

Another problem for OPACI is that members of Municipal Councils have not been actively involved in it even though its bylaws indicate that municipalities can be represented by *Intendentes* or by councilpersons. OPACI didn't anticipate that Municipal Councils would gain some measure of power and autonomy under the new political system and thus it continued to focus on *Intendentes*. Consequently, when an NGO (the Center for Democratic Studies) convened the First National Meeting of *Juntas Municipales* in 1991, an association solely for Municipal Councils, the Paraguayan Municipal Councils Association (Spanish acronym: AJUMPA) was established (which, because of limited resources, has not been very active).

The consequence of these changes is that there is currently a lack of congruence between OPACI's statutory objectives and its actual activities. OPACI has numerous broad objectives including: to promote cooperation between municipal agencies; to coordinate the activities of municipal agencies; to coordinate the development of community programs with public and private institutions, entities and agencies; to monitor the effectiveness of laws aimed at the institutional strengthening of municipalities and at improving actual living conditions in each of the municipalities; to promote interest in and knowledge of the challenges facing Municipal Government; and to support the improvement of living conditions and the civic and cultural development of municipalities.

However, OPACI's current principal activity is to gather data about license plates, vehicles, and driver's licenses; to record this data at a Computer Center; and to report this data to the municipalities, other public and private institutions, and to private citizens. It also performs a limited amount of legal counseling, drafting and modifications of laws, as well as occasional organizing of conferences and seminars.

Clearly, if OPACI continues to concern itself primarily with the subject of auto records and tags, municipalities still have no incentive to reengage with it.

### Municipal Development Institute (IDM)

The IDM was created in 1971 to support and promote the development of municipalities in the country's "interior". In general, IDM activities center on technical and financial assistance as well as training. Throughout its history, the IDM has been a key institution for the financing of infrastructural projects and local services, such as markets, slaughter houses, paving, rolling stock, bus terminals, etc. Over the years the IDM has gained experience in matters relating to urban census, financial administration, municipal public services planning and maintenance, and training activities. In its training activities, the IDM has benefitted from the help of the GTZ, the German development agency. Together, they are currently working on a project to develop cadastre modernization plans and computerize the property tax system for individual municipalities.

IDM's main problems are financial. It has a budgetary entitlement granted by the government which allows it to defray current expenses, but it does not receive any other support - excepting that of the GTZ - to develop assistance activities and technical cooperation. In addition, IDM's loan portfolio has entered a critical phase because IDM availed itself of dollar-denominated credits which it in turn has lent to the municipalities in Guaraníes. However, because of Guaraní devaluations, the funds paid back by municipalities has not covered the debts that IDM has had to pay. Likewise, with the new constitutional changes, IDM has also lost a significant share of its municipal revenues.

### Regional Associations and Other Municipally Related Associations

Besides IDM and OPACI, other regional associations include the already mentioned Paraguay Municipal Councils Association created in 1992, and also, the Municipalities Association of the Metropolitan Area (Spanish acronym: AMUAM - *Asociación de Municipalidades del Area Metropolitana*), which covers eleven municipalities of the Central Department located on the belt around the city of *Asunción*. This association was created in 1980. AMUAM is one of the few municipal associations that is relatively active, and is negotiating credit and technical assistance with the Spanish government. There are several other municipal associations that have been organized at the Departmental level, such as AMUDEPA (*Asociación de Municipalidades Departamento de Paraguari*), AMUDECOR (*Asociación de Municipalidades Departamento de Cordillera*), AMUSEDE, AMUDENE, AMUDI, etc., but they are not very active because of the general preference of municipal authorities to deal directly with both their Governors and the National Government and its ministers.

The Paraguayan Network of Municipal Women (*Red de Mujeres Municipales del Paraguay*), created in October of 1993 and with about 150 members is a good effort to promote awareness of women issues among the citizenry and among politicians. Its major goals consist in giving training on administration and government to women in elected offices, and to formulate policies and action programs aimed at women. However, the Network, as other municipal associations, has not been very active mainly because of budgetary problems.

As can be seen from this brief review of municipal institutions and associations, one current concern is the weak representation of municipalities as a whole. Since 1991 there has been increased dialogue and exchange of opinions between mayors and councilpersons. However, currently, due to OPACI's and IDM's financial and other troubles, there is no organization in Paraguay able to develop a clear vision as to how local governments can express their common interests in order to present an effective lobbying effort. This represents a serious situation precisely because one of the things that is needed is an encompassing vision of intergovernmental relations and the challenge of decentralization. Effective municipal associations could help achieve a consensus in respect to future directions in these areas.

## **VI. CONCLUSIONS AND RECOMMENDATIONS**

As noted at the outset, Paraguay is indeed a country in transition. Despite, or perhaps because this transition to democracy has already moved further in terms in breadth and depth than might have been anticipated, it is critical that the processes that have been set in motion be encouraged, nurtured and sustained.

Because Paraguay's historic level of centralization has been so great, and the authoritarianism that dominated its political life so substantial, the processes of encouraging decentralization, strengthening of local government, enhancing citizen participation and generally promoting democratization do require considerable support. Moreover, because of the country's long time authoritarian and centralist tradition, if one is to successfully support and encourage these processes, it is imperative that one bring a broad perspective to the task.

Consequently, in the Paraguayan context, the process of encouraging decentralization and enhanced citizen involvement cannot be limited simply to activities carried out at the local government or community level. Obviously, this is because decisions made in the ministries of the National Government (and now, most especially in the Country's National Legislative Body) will profoundly affect the future development of subnational governments and citizen participation in Paraguay. Consequently, as part of the process of encouraging the twin goals of democracy and decentralization in Paraguay, the following strategic initiatives should be undertaken:

**1. Support and Technical Assistance to the National Congress.** Clearly, many of the issues that will make or break the processes of decentralization and local government strengthening in Paraguay are going to be debated and decided in the halls of the Congress. The question of making available adequate revenue to Departmental and local governments and the broadening of their authority and general capacity will at least initially, and perhaps ultimately, be decided by the Congress. Moreover, the Congress itself represents an institution in which major initiatives can be undertaken to enhance the role of citizen participation and government decentralization. Consequently, as a part of the process of supporting local government strengthening and democratization in Paraguay, the provision of technical assistance in support of the activities of the Congress must assume a high priority.

**2. Decentralization Policy Dialogue with Selected Ministries.** Another key element in the process of encouraging the deconcentration of power and the strengthening of subnational government in Paraguay involves, of necessity, working with the Executive branch of the National Government in order to encourage the decentralization, both administratively and in terms of policy making, of certain key ministries. Most notable in this regard are those two ministries which provide services which the experiences of other governments around the world have demonstrated can be very effectively delivered at the local level - health and education.

Especially in these two areas of activity, a high degree of sensitivity to local needs is crucial in terms of the effectiveness of local service delivery. With respect to education, the education sector reform study recently completed with USAID financed technical assistance includes recommendations for decentralization and has lead to a significant IDB loan for implementing the reforms. Whether it be for public health services aimed at addressing a health hazard that is unique to a particular part of the country or educational services designed to remedy the training deficit that characterizes the residents of another region, experience has shown that these are services in which a significant measure of local control and influence substantially enhances the effectiveness of delivery.

A third agency of the National Government that is of very great importance to the process of decentralization and the strengthening of local governance in Paraguay is the Ministry of Finance. By both tradition and practice this Ministry is more than one among equals. As the collector and controller of almost all government revenues, it possesses great capacity to influence the speed and means by which subnational government develops in Paraguay. Consequently, one priority for encouraging the processes of decentralization in Paraguay should be working with these three Ministries to encourage and enhance the level of decentralization and the effectiveness in the provision of basic services for the Paraguayan citizenry.



**3. Increased Local Government Capacity for Revenue Generation and Financial Management.** The needs of local government in Paraguay obviously are substantial. Ninety percent of Paraguayan municipalities desperately lack adequate human resource capacity both in terms of the number of staff as well as the level of their qualifications. While in part this need is a function of a lack of adequate skills training within the country, an equal if not more important set of factors involve the absence of adequate financial resources and the legal and political authority to acquire the needed resources to facilitate the recruitment of adequate and competent staff. Consequently, municipalities in Paraguay need substantially increased capacity to raise revenue and manage expenditures. In addition, they also require a variety of technical assistance and training activities in order to strengthen their administrative, fiscal, and budgetary capacities to deliver important local government activities ranging from urban planning to basic health and human services.

**4. Clarification of Respective Roles of Municipal and Departmental Governments.** As part of the process of strengthening subnational government in Paraguay, it is also imperative that one address the issue of what ought to be the respective roles of municipalities and the newly emerging Departmental Governments. Clearly the potential exists for possible conflict between these two levels of government as well as between each of them and the National Government. Consequently, significant attention should be given to the process of developing a national dialogue regarding the appropriate role of different levels of government in the delivery of different kinds of public services. Also, in the near term, particular attention should be given to the added human and financial resource burdens to local governments from the pending policy decisions about national water and sewerage by the respective authorities.

**5. Strengthened Departmental Governments.** Many, if not most, municipalities in Paraguay are simply unlikely to have an adequate resource base to provide effectively and comprehensively major areas of public services to their citizenry in the foreseeable future. Thus, because of the heavily rural nature of large parts of the country, it is of particular importance that any effort to strengthen local government, encourage decentralization and promote citizen participation also support the newly emerging Departmental Governments in much the same fashion that one would support Municipal Governments.

This would seem to be a matter of especial urgency since it is highly likely that policies will be put in place in the next few years that will either establish Departmental Government as an important element of subnational governance in Paraguay for the next century or, alternatively, serve to pass them by and trivialize them. The latter would be particularly unfortunate because for many public services, the larger population base and geographic scope of Departments make them a more logical locus for the management and delivery of many public services than do the approximately half of all the nation's municipalities that, under even the best of

circumstances, are unlikely to develop the necessary fiscal capacity and administrative infrastructure to efficiently and effectively deliver many needed public services.

**6. Strengthened Associations of Subnational Governments.** The needs of Municipal and Departmental associations are important. Most of Paraguay's Municipal and Departmental associations lack not only the necessary infrastructure, but also clearly defined functions, and adequate human resource capacity that would help them advance their objectives. As part of the process of strengthening subnational governments it is important to address the need to support these associations, through technical assistance and training, in their efforts to be organized not only to share information, and know how, but also to develop their abilities as lobby groups.

**7. Increased Citizen Participation.** Finally, one cannot conclude a review of the emerging situation in Paraguay without noting the need to encourage and support the development of informed and responsible citizen participation in the shaping of political and governmental activities. In the end this is the most fundamental element in the development of a democratic society. This represents a particular problem in Paraguay, where for so long effective citizen participation was discouraged and, if necessary, suppressed. Towards this aim, many of the forms of citizen participation that are routinely taken for granted in established democracies - the use of citizen advisory bodies; open public hearings; accessibility of official records; and, the like - need to be developed and supported at all levels of governance in Paraguay.

## A P P E N D I X E S

### **Appendix 1: Chronology of Important Events**

February 3, 1989	General Stroessner is overthrown by General Andres Rodriguez.
May 15, 1989	General Andres Rodriguez is elected President by the direct vote of the people.
May 26, 1991	Mayors and Members to the Municipal Councils are popularly and freely elected for the first time in Paraguayan history. The opposition wins in Asunción and in other important municipalities.
December, 1991	Elections of representatives to the Constitutional National Assembly to write a new constitution. The Colorado Party wins a majority.
June 20, 1992	Promulgation of the new Paraguayan Constitution.
May 9, 1993	Popular and direct elections for the Presidency, Governorships, and Departmental Councils in the whole country. Juan Carlos Wasmosy of the Colorado Party is elected president for a five year term.
December, 1994	The new Administrative Departmental Law 426/94 is approved by the Paraguayan Congress. The Administrative Municipal Law is still being debated at the Congress.

## **Appendix 2: Municipal Revenues**

The data that follows provides a reasonably good overview of the current municipal revenue picture in Paraguay's areas of greatest urban development. It has been compiled from the latest data collected by the National Government through the Institute for Municipal Development and presents a breakdown of municipal revenues from *Asunción* and three municipalities (a typical large, mid-size and smaller one) in each of the three Departments that make up the country's most urbanized area (and which are most proximate to *Asunción*). These municipal budgets are broken down in terms of the most important revenue sources. For this purpose, the 1994 budgets were used. (Note that the exchange rate used to express amounts in dollar terms was 1 US\$ = Gs. 1,930).

### **DEPARTMENT OF *CENTRAL***

#### **Luque**

*Luque*, with a total population in 1992 of 114,802<sup>18</sup>, has 60 permanent employees and 32 part-time employees.

Total budget - Gs. 2,330 million or US\$ 1,2 million

#### **Budget Breakdown (in millions):**

A.	Tributary Income <sup>19</sup>	Gs. 1,605.3
B.	Non-Tributary Income <sup>20</sup>	Gs. 405.5
C.	Capital Resources <sup>21</sup>	Gs. 275.0

#### **Sources of Tributary Income:**

(Note: revenue sources expressed as a percentage of total budget)

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<sup>18</sup> Total population according to the 1992 National Census.

<sup>19</sup> Examples of tributary income are mentioned under the "Sources of Tributary Income" heading.

<sup>20</sup> Non-Tributary Income is made up of a few general categories such as: rental of municipal property or services; fines and concessions. Interest from bank accounts and whatever other income which is not derived from a direct municipal tax or fee are included in this category. The amounts received by the municipality in the non-tributary income category are for the most part set by the municipality, for example rental rates. Some services are required by law to be charged at cost. The amounts for fines are set by the national tributary law.

<sup>21</sup> Capital resources are basically derived from three items; (1) loans, whether it be public or private sector, (2) budget surpluses from the previous year(s), (3) sale of municipal land and/or buildings. payments received by the municipality or loans they may have given also fall in this category.

Property Tax	Gs. 500.0	21.5%
Vehicle Tax	Gs. 350.0	15.0%
Patents and		
Professional License	Gs. 280.0	12.0%
Public Transportation	Gs. 143.0	6.2%
Other Taxes/Fees	Gs. 332.3	14.2%

### **Nemby**

Total population in 1992: 38,738 people.

Total Budget - Gs. 604.5 million or US\$ 313,212

Budget Breakdown (in millions):

A. Tributary Income	Gs. 398.3
B. Non-Tributary Income	Gs. 93.2
C. Capital Resources	Gs. 113.0

Sources of Tributary Income:

(Note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 103.7	17.1%
Vehicle Tax	Gs. 70.0	11.6%
Patents and		
Professional License	Gs. 65.0	10.8%
Certified Papers and		
Stamps	Gs. 27.0	4.5%
Other Taxes/Fees	Gs. 132.6	22.0%

### **J. Augusto Saldivar**

*J. Augusto Saldivar*, with a total population in 1992 of 20,974, has five (5) permanent employees.

Total Budget - Gs. 75.0 million or US\$ 38,860

Budget Breakdown (in millions):

A. Tributary Income	Gs. 61.8
B. Non-Tributary Income	Gs. 10.2
C. Capital Resources	Gs. 3.0

Sources of Tributary Income:

(Note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 15.0	20.0%
Vehicle Tax	Gs. 14.8	19.8%
Patents and		
Professional License	Gs. 12.4	16.5%
Public Transportation	Gs. 9.0	12.0%
Other Taxes/Fees	Gs. 10.5	14.1%

## DEPARTMENT OF *CORDILLERA*

### *Caacupé*

Total population in 1992: 31,311

Total Budget - Gs. 615.1 million or US\$ 318,752

Budget Breakdown (in millions):

A.	Tributary Income	Gs. 393.6
B.	Non-Tributary Income	Gs. 186.4
C.	Capital Resources	Gs. 35.1

Sources of Tributary Income:

(Note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 136.0	22.1%
Patents and Professional License	Gs. 49.0	8.0%
Public Transportation	Gs. 46.0	7.5%
Vehicle Tax	Gs. 42.0	6.8%
Other Taxes/Fees	Gs. 120.6	19.6%

### *Piribebuy*

*Piribebuy*, with a total population in 1992 of 21,796, has nine (9) permanent employees and eight (8) part-time employees.

Total Budget - Gs. 293.2 million or US\$151,919

Budget Breakdown(in millions):

A.	Tributary Income:	Gs. 120.5
B.	Non-Tributary Income:	Gs. 80.4
C.	Capital Resources	Gs. 92.2

Sources of Tributary Income:

(Note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 25.0	8.5%
Vehicle Tax	Gs. 25.0	8.5%
Public Transportation	Gs. 23.8	8.1%
Patents and Professional License	Gs. 20.0	6.8%
Other Taxes/Fees	Gs. 26.7	9.1%

### *Santa Elena*

Santa Elena, with a total population of 4,827, has three (3) permanent employees and five (5) part-time employees.

Total Budget - Gs. 61.0 million or US\$ 31,606

**Budget Breakdown (in millions):**

A. Tributary Income	Gs. 47.7
B. Non-Tributary Income	Gs. 13.2
C. Capital Resources	Gs. 0

**Sources of Tributary Income:**

(Note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 10.0	16.4%
Patents and Professional Licenses	Gs. 9.0	14.8%
Vehicle Tax	Gs. 8.0	13.1%
Animal Slaughter	Gs. 3.2	5.3%
Other Taxes/Fees	Gs. 17.5	28.8%

**DEPARTMENT OF PARAGUARÍ**

**Carapeguá**

*Carapeguá*, with a total population in 1992 of 28,032, has 18 permanent employees and eight (8) part-time employees.

Total Budget - Gs. 399.3 million or US\$ 206,936

**Budget Breakdown (in millions):**

A. Tributary Income	Gs. 231.2
B. Non-Tributary Income	Gs. 155.0
C. Capital Resources	Gs. 13.1

**Sources of Tributary Income:**

(Note: revenue sources expressed as a percentage of total budget)

Patents and Professional License	Gs. 60.0	15.2%
Property Tax	Gs. 60.0	15.0%
Vehicle Tax	Gs. 30.0	7.5%
Public Transportation	Gs. 17.5	4.4%
Other Taxes/Fees	Gs. 62.8	15.8%

**Caapucú**

*Caapucú*, with a total population in 1992 of 7,051, has six (6) permanent employees and five (5) part-time employees.

Total Budget - Gs. 169.3 million or US\$ 87,752

**Budget Breakdown (in millions):**

A. Tributary Income	Gs. 115.0
B. Non-Tributary Income	Gs. 48.3
C. Capital Resources	Gs. 6.0



Sources of Tributary Income:

(Note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 90.0	53.1%
Patents and Professional License	Gs. 6.0	3.5%
Animal marking and Registration	Gs. 5.0	3.0%
Vehicle Tax	Gs. 4.5	2.7%
Other Taxes/Fees	Gs. 9.5	5.6%

**Ybitymi**

Total population in 1992: 6,934

Total Budget - Gs. 40 million or US\$ 20,725

Budget Breakdown (in millions):

A. Tributary Income	Gs. 22.0
B. Non-Tributary Income	Gs. 18.0
C. Capital Resources	Gs. 0

Sources of Tributary Income:

(Note: revenue sources expressed as a percentage of total budget)

Property Tax	Gs. 10.0	25.0%
Animal Slaughter	Gs. 2.5	6.3%
Animal Possession	Gs. 2.5	6.3%
Garbage Collection Fee	Gs. 2.5	6.3%
Other Taxes/Fees	Gs. 4.5	11.2%

### **Appendix 3: Excerpts from the 1992 PARAGUAY NATIONAL CONSTITUTION**<sup>22</sup>

#### **CHAPTER IV ON THE TERRITORIAL ORDINANCE OF THE REPUBLIC SECTION I GENERAL DISPOSITIONS**

##### **Article 155. ON TERRITORY AND ON SOVEREIGNTY**

The national territory may never be rendered, transferred, rented, nor in any way alienated, even temporarily, to any foreign power. The States which maintain diplomatic relations with the Republic, as well as the international organisms which it forms part of, may only acquire the land necessary for the headquarters of its representations, in accordance with what the law prescribes. In these cases, the national sovereignty of the land will always be safe.

##### **Article 156. THE POLITICAL AND ADMINISTRATIVE STRUCTURE**

Regarding the effects of the political and administrative structure of the State, the national territory is divided into Departments, municipalities and districts, which, within the limits of this Constitution and its laws, benefits from political, administrative and normative autonomy for the processes of its interest, and of autarchy in the collection and investments of its resources.

##### **Article 157. ON THE CAPITAL**

The City of Asuncion is the Capital of the Republic and the site of the powers of State. It is constituted as a Municipality, and is independent from all other Departments. The law will establish its limits.

##### **Article 158. ON NATIONAL SERVICES**

The creation and functioning of the services of national nature in the jurisdiction of the Departments and of the municipalities will be authorized by law.

Departmental services can also be established, by means of agreements among the respective Departments and municipalities.

##### **Article 159. ON THE DEPARTMENTS AND MUNICIPALITIES**

The creation, merging or modification of the Departments and its capitals, the municipalities and districts, respectively will be determined by the law, heeding to the socio-economic, demographic, ecological, cultural and historic conditions of same.

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<sup>22</sup> *Constitución Nacional República del Paraguay. Edición Oficial. Junio 1992. Asunción, Paraguay.*  
Pages 31-34.

#### **Article 150. ON THE REGIONS**

The Departments may be grouped in regions, for the better development of its respective communities. Its constitution and functions will be regulated by law.

### **SECTION II ON THE DEPARTMENTS**

#### **Article 161. ON THE Departmental Government**

The government of each Department will be exercised by a Governor and through a Departmental Council. They will be appointed by direct vote of the citizens residing in the respective Departments, in elections coinciding with the general elections, and will last five years in office.

The Governor represents the Executive Power in the execution of national politics. He cannot be re-elected.

The Law will determine the composition and functions of the Departmental Councils.

#### **Article 162. ON THE PREREQUISITES**

To be a Governor, one requires:

- 1) to be a native Paraguayan;
- 2) to be thirty years of age, and;
- 3) be a native of the Department with residence in same for at least one year. In the event the candidate is not a native of the Department, he should have lived there during at least five years. Both terms will be immediately counted prior to the elections;
- 4) the inabilities of a candidate to be Governor are the as those for the President and Vice President of the Republic.

To be a member of the Departmental Council, the same established requirements are effective as those to be Governor, with the exception of age, which should be being twenty five years of age.

#### **Article 163. ON DUTIES**

It is duty of the Departmental Governments:

- 1) to coordinate activities with the different Departments, organize Departmental services in common, such as public works, energy provisions, drinking water as well as those others which affect more than one municipality in conjunction, as well as promote cooperative associations between them;
- 2) to prepare the Departmental development plan, which should be coordinated with the National Development Plan, and elaborate annual budget formulation, to be considered within the National Budget;

- 3) to coordinate Departmental action with the activities of the National Government, specially those related to Departmental offices of national character; mainly those related to the area of health and education;
- 4) to arrange the integration of the Departmental Development Councils, and
- 5) the remaining duties established by this Constitution and the law.

#### **Article 164. ON RESOURCES**

The resources of the Departmental administration are:

- 1) the portion corresponding to taxes, rates and contributions will be defined and regulated by this Constitution and by the law;
- 2) the assignments and subsidies designated by the National Government;
- 3) their own income determined by law, as well as donations and inheritance, and;
- 4) the remaining resources established by law.

#### **Article 165. ON INTERVENTION**

The Departments and municipalities may be intervened by the Executive Power, prior to agreement of the Chamber of Congressmen, in the following cases:

- 1) upon the request of the Departmental or Municipal Council by decision of the absolute majority;
- 2) as a result of the disintegration of the Departmental or Municipal Council which inhibits its performance, and;
- 3) as a result of serious irregularities in the execution of the budget or the administration of its property, prior decree of the General Controller of the Republic.

The intervention will not be extended over ninety days, if from it arises the situation foreseen in clause 3), the Chamber of Congressmen, through absolute majority, will be able to destitute the Governor, or administrator, or the Departmental or Municipal Council, having the Court of Superior Electoral Justice to convoke new elections, within the ninety days following the resolution decreed by the Chamber of Congressmen.

### **SECTION III ON THE MUNICIPALITIES**

#### **Article 166. ON ITS AUTONOMY**

The municipalities are organisms of local government with judicial stature which, within its duties, has political, administrative and normative autonomy, as well as autarchy in the collection and investment of its resources.

#### **Article 167. ON THE MUNICIPAL GOVERNMENT**

The Municipal Government is under the responsibility of a Mayor and of a Municipal Council, which will be elected by direct vote of the people legally able.

#### **Article 168. ON ITS ATTRIBUTIONS**

It will be the attributions of the municipalities, in its territorial jurisdiction and in agreement with the law:

- 1) the liberal execution in matters of its competence, particularly those related to urbanism, environment, supply, education, culture, sports, tourism, social and sanitary assistance, credit institutions, inspection Departments and police;
- 2) the administration and disposition of its property;
- 3) the elaboration of the incoming and outgoing budget;
- 4) the participation of national income;
- 5) the regulation of the amount of the retributive rates on services rendered, not exceeding the cost of same;
- 6) the dictation of ordinances, regulations and resolutions;
- 7) the access to private credit and public credit, national and international;
- 8) the regulation and fiscalization of transit, of public transportation and other matters relative to vehicle circulation, and;
- 9) the remaining attributions established in this Constitution and the law.

#### **Article 169. ON LAND TAX**

The totality of direct property taxes will correspond to the municipalities and the Departments. Their collection will be the responsibility of the municipalities. Seventy percent of that collected by each municipality will belong to same; fifteen percent to the respective Department; and the remaining fifteen percent will be distributed amongst the low income municipalities, in accordance with the law.

#### **Article 170. ON THE PROTECTION OF RESOURCES**

No state institution, autonomous, autartic or decentralized entity will be able to take possession of the income or monies of the municipalities.

#### **Article 171. ON THE CATEGORIES AND REGIMES**

The different categories and regimes of municipalities will be established by law, tending to the conditions of the population, its economic development, its geographic, ecological, cultural and historical situation as well as other decisive factors for its development.

The municipalities will be able to form associations amongst them to affront the common achievement of their goals and, in accordance with the law, with municipalities in other countries.

#### **Appendix 4: Excerpts of the "Summary of Administrative Municipal Law 1294"<sup>23</sup>**

##### **The Municipality**

A municipality is a community of neighbors sharing family ties, economic, cultural relations who have decided to form their own government. Consequently, it is not only a social phenomena but a political one as well.

To form a government, a society must fulfill the following requirements in accordance with Article 30.

ART. 30 - The creation of a municipality may be determined by law, if and when it fulfills the following requirements:

- 1) a minimum population of five thousand people;
- 2) a territory with preferably a natural delimitation;
- 3) sufficient financial capacity to support the operational expenses of its government, administration, and those essential public services of municipal nature;
- 4) that its creation does not affect the normal development of the neighboring municipalities; and,
- 5) that there be regular activity in the area: Neighborhood Communal Boards or Commissions of Urban Promotion.

If there is a petition on the part of the neighbors, it should be expressed and formal, and signed by at least 10 percent, of the population. Once the above is done, it is the responsibility of the National Parliament which approves a law to accept the creation of the municipality, and specifically the Chamber of Congressmen which must receive the bill proposal for the creation of the municipality.

Once Parliament has accepted the bill proposal, the community is needed to form a government to give it judicial stature, converting it, therefore, to a municipality. A municipality then has the power of exercising Municipal Government within its entire territory, in accordance with the law. Municipal Government is made up of two basic powers: the executive (being represented by the "*Intendente*" or Mayor) and the legislative (being represented by the Members of the *Junta Municipal* or Municipal Council).

##### **Objectives and Functions of a Municipality**

According to Article 17 the objectives of a municipality are the following:

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<sup>23</sup> *Resumen de Ley Orgánica Municipal Número 1294. Parts I, II, and III. Serie: Cuadernos de Formación Ciudadana. Area Temática: Temas del Gobierno Local. Prepared by the Centro de Estudios Democráticos as part of a Citizen Civic Education Campaign. Unfortunately no date for this study was found.*

- 1) the welfare of the local community and its cultural, social and material development;
- 2) the protection of the peoples health and security;
- 3) the civic promotion and solidarity amongst the neighbors; and
- 4) the cooperation with other municipalities and entities, for the compliance of works of collective interest, with their specific fields of interest.

It is the Administrative Municipal Law the one which determines the functions and attribution of a municipality:

**Article: 18 - Municipal Functions**

- 1) the establishment of the physical, urban and rural planning system of the municipality;
- 2) the construction, maintenance and beautification of the streets, avenues, parks, plazas, swimming facilities and other public places as well as those highways which are not the responsibilities of other organisms;
- 3) the regulation and rendering of cleaning services, specially the recollection and disposition of waste;
- 4) the cleaning of highways and public places;
- 5) the regulation and fiscalization of construction plans, street numbering, lot numbering and public decor;
- 6) the creation of services which facilitate the marketing and supply of products of basic consumption, such as markets, fairs, slaughterhouses, as well as the controls related to the elaboration, manipulation and sale of food items;
- 7) the promotion of public education, culture, sports and tourism;
- 8) the cooperation for the preservation of historic monuments, art and other cultural property;
- 9) regulation and fiscalization of transit, public transportation and other issues related to vehicle circulation;
- 10) the regulation and fiscalization of public spectacles, commercial advertising, sports and recreational activities, tending to preserve public morals and good habits;
- 11) regulation of operation of pawn shops and municipal credit institutions;
- 12) creation of a Municipal police to comply and control the activities relative to the municipality;
- 13) the establishment of lighting, water, and sere in the event these services are not supplied by other public organisms;
- 14) establishment of a local public service system and delimitation of rivers, lakes, streams as stipulated by the Civil Code;
- 15) the regulation and rendering of funeral and cemetery services;
- 16) the preservation of the environment and ecological balance, creation of parks and forest reserves, promotion and cooperation of natural resources;
- 17) the promotion of public health, construction of social housing and welfare programs for the people;

- 18) the promotion of civic consciousness and solidarity of the people for their participation in activities of communal interest;
- 19) the development of employment plans and programs in coordination with the Ministry of Justice and Labor in order to direct the supply and demand of labor and foment employment; and,
- 20) the remaining functions for the compliance of municipal objectives.

### **Municipal Income**

The principal source of income for municipalities are those economic, social and cultural activities of the same community, through the payment of tax.

The following are the sources of municipal tax:

- 1) commercial, industrial and professional patents in general
- 2) vehicle patents
- 3) construction
- 4) the fractioning of property
- 5) the transfer real estate
- 6) building
- 7) register of cattle breeds
- 8) the transfer and counting of cattle
- 9) collective passenger transportation
- 10) public spectacles and gambling
- 11) raffles and contests
- 12) credit operations
- 13) publicity and advertising
- 14) seals and municipal stamps
- 15) cemeteries
- 16) to the owners of animals; and
- 17) others created under the law

The second important source of income is comes from services rendered:

- 1) sweeping and cleaning
- 2) recollection and treatment of waste
- 3) preservation of parks, gardens, and public paths
- 4) contrasting and inspection of scales
- 5) housing address nomenclature tags
- 6) health services
- 7) cemetery services
- 8) extermination of insects, rodents and other disease transmitting agents
- 9) inspection of facilities
- 10) vehicle identification and inspection



- 11) public lighting, water and sewer supply, if and when it does not correspond to other organisms;
- 12) prevention and protection service against fire, landslides and other serious accidents; and,
- 13) all other established by law.

A third source is special contribution coming from public works performed to improve private property such as ports, roads, etc. These improvements are rendered to the municipality.

Property tax. In accordance with Article 134, the owners of all lots over 2 hectares are obliged to transfer to the municipality, without indemnization and covering the transfer costs, 5 percent of the total area for parks, plazas and other municipal services. This is also true of lots over 3 hectare; where 2% should be transferred to the municipality.

Finally, fines, services rendered, leasing of fixed assets, leasing of financial assets, concessions, and all other income not classified as tax.

Afterwards, there are transfers, income being assigned by the National Government and non-repayable financial assistance. And lastly, capital income: a) loan reimbursement b) local and foreign loans c) sale of fixed assets d) sale of financial securities e) budget surplus.

### **The Municipal Government**

The Municipal Government is composed of: Executive and Legislative Powers, represented by the Mayor and the Municipal Council.

### **The Municipal Council**

The Municipal Council is composed of a specific number of advisors, depending on the category of each municipality. These act as legislators at a municipal level.

**Art. 10** - For the effects of this law, the country's municipalities, with the exception of *Asunción*, will be grouped in accordance to the amounts of the respective General Expenses Budget and the Calculation of Annual Resources, as follows:

**First Group** - Over 50 percent of the total annual average of the budgeted amounts corresponding to the municipalities of the Departmental capitals.

**Second Group** - Inferior to 50 percent of the average mentioned in the aforementioned point, up to 12 percent of said average.

**Third Group** - Inferior to 12 percent of the average mentioned in the above point, up to 3# of the same average.

**Fourth Group** - Inferior to the minimums established in the third group.

The members of the Municipal Council elect a President, a Vice-President and a Secretary, as well as create various advisory commissions for communal service:

- 1) Legislation
- 2) Finance and Budget
- 3) Public Works and Services
- 4) Physical and Urban Planning
- 5) Hygiene, Health and Social Service
- 6) Education, Culture, Sport and Tourism
- 7) Natural resources and environment
- 8) Morality and public spectacle
- 9) Safety and transit

The Municipal Council may merge two or more commissions, create new or special commissions.

The Municipal Council may sanction:

Ordinances: Laws for the entire municipality

Regulations: Which norm the internal administration of the municipality

Resolutions: Which norm specific or particular aspects of the municipality

#### **The Municipal Administration**

The *Intendencia* is in charge of the general administration of the municipality. To meet its objectives, it counts on a secretary, municipal police, communal neighbor boards and urban promotion boards. The head of the Municipal Administration is the *Intendente* or Mayor and the duties of the Municipal Administration are described in Articles 58 to 88.

#### **Communal Neighbor Boards, and Urban Promotion Boards**

These two executive organisms of the Administration count on the participation of the people, but are not autonomous.

**Art. 75** - The Communal Neighbors Board will be created and integrated by Resolution of the Municipal Administration, and will be located at in the Companies or Colonies. Its authorities will be appointed by the Mayor.

**Art. 86** - The Urban Promotion Commissions are association of neighbors of a given sector or neighborhood, which operates in urban and suburban zones. It will depend on the Municipal Administration and will act as auxiliary organism of the first.

The functions of the Communal Neighbors Board and the Urban Promotion Commissions are the following:

- 1) aid the Municipal Administration in the performance of works of public interest and in the rendering of basic services;
- 2) inform the needs of the neighborhood and transmit them to the Mayor, as well as the proposed solutions;
- 3) develop activities of cultural, social and sports orientation;
- 4) collaborate with the Municipal Administration in the compliance with the Ordinances, Resolutions and other municipal dispositions communicating their content to the neighbors; and,
- 5) cooperate with the administration in the care of plazas, parks, and municipal beaches as well as other sites of public recreation, as well as reforestation programs.

The differences between these two government organisms is that the Board may "receive municipal income and other resources with prior written authorization by the Mayor, establishing the form and the payment terms (Art.80).

An other difference between the Commissions of Urban Promotion and the Communal Neighbors Boards is that in the case of the latter, the Law establishes how it should be made up, and the former is regulated by the resolution of the Municipal Administration.

#### **The Court of Municipal Offenses**

These are formed to judge the transgressions of the Municipal Ordinances on Resolutions and Regulations.

It is composed of: a Judge, a Secretary and the persons affected by the notifications. The latter is only judged once, but may appeal directly to the Mayor. The offenses are charged in the form of fines.